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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/042,999 | 01/09/2002 | James R. Kauffman | P00-3276 | 6162 |

7590 06/10/2004

JOHNATHAN M. ROSE
CONLEY, ROSE & TAYON
P.O. BOX 3267
Houston, TX 77253-3267

EXAMINER

MYERS, PAUL R

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2112

DATE MAILED: 06/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Am

Office Action Summary

Application No.

10/042,999

Applicant(s)

KAUFFMAN ET AL.

Examiner

Paul R. Myers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-76 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-70 and 73-76 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 8, 12-14, 16, 19, 20, 71 and 72 is/are rejected.
- 7) ☒ Claim(s) 4, 6, 7, 9-11, 15, 17, 18 and 21-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 8, 71 are rejected under 35 U.S.C. 102(b) as being anticipated by Bell PN 4,554,628.

In regards to claims 1, 71: Bell teaches a method for ordering equitable access to a limited resource by a plurality of contenders where each of the contenders contends for access more than one time, the method comprising: classifying one or more contenders of the plurality of contenders as abused contenders (losing bids) that have failed to gain access to the limited resource; the abused contenders attempting among themselves to gain access to the limited resource (Bids again); and repeating the above until all of the abused contenders have gained access to the limited resource (all stored bids win).

In regards to claims 2-3: Bell teaches classifying the one or more contenders of the plurality of contenders as abused (losing) contenders that have failed to gain access to the limited resource comprises classifying the one or more contenders of the plurality of contenders as abused contenders that have failed to gain access to the limited resource after at least a predetermined number of attempts to gain access to the limited resource (in this case 1 time).

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In regards to claim 8: Bell teaches starting a sequence when at least one of the abused contenders is first identified; ending the sequence when all abused contenders have gained access to the limited resource.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5, 12-14, 16, 19-20, 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell PN 4,554,628 in view of applicants admitted prior art.

In regards to claims 5, 12, 72: Bell teaches the losing bids rearbiting until all losing bids win as taught above. Bell does not teach “Jousting” for a spinlock. Applicants admitted prior art teach in a spinlock the requesting devices “jousting” for the spinlock (Page 5 lines 10-22). It would have been obvious to a person of ordinary skill in the art at the time of the invention to use Bell’s arbitration method in a system with spinlocks because this would have allowed for a simple method of handling multithreaded multiple processes running concurrently.

In regards to claims 13-14, 16: Bell teaches classifying the one or more contenders of the plurality of contenders as abused (losing) contenders that have failed to gain access to the limited resource comprises classifying the one or more contenders of the plurality of contenders as abused contenders that have failed to gain access to the

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limited resource after at least a predetermined number of attempts to gain access to the limited resource (in this case 1 time).

In regards to claim 19-20: Bell teaches starting a sequence when at least one of the abused contenders is first identified; ending the sequence when all abused contenders have gained access to the limited resource.

Allowable Subject Matter

5. Claims 4, 6-7, 9-11, 15, 17-18, 21-23 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 24-70, 73-76 allowed.

7. The following is a statement of reasons for the indication of allowable subject matter: The examiner could not find the maintaining a record of the number of times a requester has failed to gain access to a resource or dynamically modifying a threshold value of the number of times a requester has failed to gain access to a resource.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul R. Myers whose telephone number is 703 305 9656. The examiner can normally be reached on Mon-Thur 6:30-4:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart can be reached on 703 305 4815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PRM
June 9, 2004



PAUL R. MYERS
PRIMARY EXAMINER